

percent is considered a low vacancy area. Confirm the vacancy rate with HUD EMAS staff/CA staff; or

3. **Community Support.** The property is a high priority for the local community as demonstrated by a contribution of State or local funds to the property. This matching requirement may be in the form of tax abatements, capital improvement funds etc.

C. Discretionary Mark-Up-To-Market requests are processed and approved by the Program Center with jurisdiction over the project.

Initial Renewals

Section 3-4

At least 120 days before the expiration of the contract, the Owner submits a Contract Renewal Request Form, Form HUD 9624 and a Rent Comparability Study ("RCS"). The RCS is to be prepared based on the instructions in Chapter Nine of this Guide.

Annual Adjustments in Years 2 through 5

Section 3-5

At least 120 days before the anniversary date of the contract, the Owner submits the OCAF Rent Adjustment Worksheet, Form HUD 9625, Attachment 3. In years two through five, rents are adjusted by the published OCAF. No budget-based rent increases shall be approved for contracts that Mark-Up-To-Market.

After receiving and processing of the OCAF renewal worksheet, the PM/CA shall provide the Owner with a revised rent schedule, i.e., Exhibit A. The revised Exhibit A will amend the existing section 524 contract, and the revised rents will go into effect on the day following the anniversary date of the contract.

Subsequent Renewals

Section 3-6

Upon expiration of the contract, Owners may elect to renew under any renewal options available at that time for which the project is eligible. Owners are encouraged to enter into another multi-year contract but are not required to do so.

Processing Instructions

Section 3-7

- A. Initially Eligible. For either Option One-A or One-B, if the property meets the eligibility criteria, the PM/CA orders a rent comparability study from the Department's independent third-party contractor to find out that rents under the expiring contract are less than comparable market rents for the market area.

Note: CAs must go through the PM to order the third party RCS.

HUD/CA and an Owner may enter into a short-term renewal contract using a prorated OCAF adjustment, if needed, to afford the Owner and HUD time to complete the eligibility analysis.

- B. Not Eligible. If the property is not eligible for Option One-A, but meets the eligibility criteria for Option One-B, rents may be marked up to market.
- C. HUD has 120 days to process an Owner's renewal request and is not obligated to complete the process any sooner. If the rent increase process is not completed within the 120 days, through no fault of the Owner, the Owner is due a retroactive rent increase for the period of time beyond the 120 days that it takes HUD to process the renewal request. If however, the Owner submits the request less than 120 days prior to expiration of the contract (e.g., 30 days late) HUD has 120 days from the date of submission of the paperwork to process the request. *In all cases the effective date of the contract will be the day following expiration of the last expiring contract. An Owner who submits a renewal request less than 120 days before contract expiration, however, will not receive a retroactive rent increase.*

Example: An Owner submits a renewal request 90 days prior to contract expiration, HUD has the full 120 days to process the request. If HUD's processing is timely, the renewal rents shall take effect 30 days after the expiration date with

no retroactive rent increase permitted. If HUD takes 150 days to process the request, the renewal rents shall take place 60 days after the expiration date with the Owner due retroactive rent increase for only 30 days. The net effect of this policy is that, in all cases, owners who fail to submit their renewal request to HUD at least 120 days before contract expiration will not receive increased rents for the period of time that it takes HUD to process the renewal request. The effective date of the renewal contract, however, will always be the day immediately following the expiration date of the expiring contract. *NOTE: This policy applies only to contracts renewing under Option One, Mark-Up-To-Market.*

- D. Contract Term. An Owner must accept, at a minimum, a five-year contract, subject to annual appropriations. During the term of the MU2M five-year contract, the Owner of a Section 236 or a 221(d)(3) BMIR project agrees not to prepay any FHA-insured mortgage on this project, except where HUD, in its sole discretion, approves the prepayment as a component of a transaction where the project is preserved as affordable housing.

Note: Request for prepayments should be forwarded to the attention of the Director, Office of Portfolio Management, Headquarters.

- E. Notification. Upon signing a multi-year contract renewal, Owners must notify tenants in writing that they have agreed to a multi-year contract renewal agreement with the Department. This letter must also state that the contract is subject to the availability of annual appropriations. The letter shall advise the tenants that they will receive a one-year written notification prior to expiration of the Section 8 contract.
- F. Comparability Studies. Along with a request to Mark-Up-To-Market, the Owner must submit a Rent Comparability Study (“RCS”) prepared following the guidelines detailed in Chapter Nine of this Guide.

1. Accurate Comparable Market Rents. Immediately upon receipt of the Owner’s request for renewal use the following process to establish comparable market rents:

- a. The PM/CA uses the Owner’s study as an initial determining factor for participation. HUD will accept the Owner’s study without analysis. This initial study is only for determining initial eligibility.
- b. If the Owner’s comparable gross rent potential is below 100% of the FMR potential, the Owner is not eligible for participation in Option One-A.

- c. If the Owner's comparable gross rent potential is at or above 100% of the FMR potential, the PM/CA immediately orders a HUD comparability study (not applicable for Option One-B).
- d. HUD will hire an independent third-party appraiser through its Contracting Officer. Since the RCSs will be done for both insured and uninsured properties, contract funds to pay for the studies will come from the sources below. The PM/CA will rely, without an in-depth review, upon the information contained in the third-party appraisal in implementing Mark-Up-To-Market.